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In re Application of	:	
Locarnini et al.	:	
Application No. 09/831,686	:	DECISION ON
PCT No.: PCT/AU99/00993	:	
Int. Filing Date: 11 November 1998	:	PETITION UNDER
Priority Date: 10 November 1999	:	
Atty. Docket No.: 37921151956	:	37 CFR 1.137(b)
For: Biological Compositions,	:	
Components Thereof And	:	
And Uses Therefor	:	

This is in response to the petition under 37 CFR 1.137(b) filed on 01 March 2004.

### **BACKGROUND**

This international application was filed on 10 November 1999, claimed an earliest priority date of 11 November 1998, and designated the U.S. A Demand electing the United States was filed prior to the elapse of 19 months from the priority date. The International Bureau transmitted a copy of the published international application to the USPTO on 18 May 2000. The 30 month time period for paying the basic national fee in the United States expired at midnight on 11 May 2001. On 10 May 2001, applicants filed *inter alia* the basic national fee and a surcharge under 37 CFR 1.492(e).

On 13 June 2001, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of an executed oath or declaration of the inventors.

On 31 July 2001, applicants filed a "Response To Notification of Missing Requirements..." which referenced an executed declaration of the inventors.

On 24 October 2001, a Notification of Acceptance (Form PCT/DO/EO/903) was mailed to applicants, indicating that this application had a date under 35 U.S.C. 371 (c)(1), (2) and (4) of 31 July 2001.

On 03 March 2003, a Notification of Defective Response (Form PCT/DO/EO/916) was mailed to applicants, requiring an initial or substitute computer readable form (CRF) of the sequence listing and an initial or substitute paper copy or compact disk of the sequence listing, as well as an amendment directing its entry into the specification.

On 10 April 2003, applicants filed a "Response To Notification Of Defective Response" accompanied by a CRF of the sequence listing, a paper copy of the sequence listing and an amendment directing its entry into the specification. The CRF was found to be

defective upon its inspection by the USPTO.

On 08 September 2003, a Notification of Defective Response (Form PCT/DO/EO/916) was mailed to applicants, requiring an initial or substitute computer readable form (CRF) of the sequence listing.

On 23 February 2004, a Notification of Defective Response Abandonment (Form PCT/DO/EO/918) was mailed to applicant, indicating that this international application had become abandoned with respect to the national stage in the United States for failure to timely reply to the Notification of Missing Requirements mailed on 13 June 2001.

### **DISCUSSION**

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed; (2) the petition fee as set forth in § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Regarding requirement (1), the required reply is an initial or substitute computer readable form (CRF) of the sequence listing. Since no such CRF accompanied the petition or is otherwise present in the application file, requirement (1) has not been satisfied.

Regarding requirement (2), the petition fee accompanied the petition.

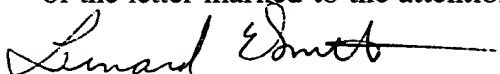
Regarding requirement (3), the petition includes an appropriate statement.

Regarding requirement (4), no terminal disclaimer is required because the international filing date of this application is later than 8 June 1995.

### **DECISION**

The petition under 37 CFR 1.137(b) is **DISMISSED**, without prejudice, for the reasons described hereinabove.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, DC 20231, with the contents of the letter marked to the attention of the PCT Legal Office.



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